CHESTER OSHEYACK
17850-A Lake Carlton Drive
Lutz, Florida 33549

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January 25, 1996

Federal Communications Commission
Washington, D.C. 20554

In the matter of Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage of the Public Switched Network for Basic Telephone Service:

CC: Docket No 95-115

Please accept the enclosed information and comments for your consideration.

The enclosed was prepared and has been presented in the form of prefiled testimony for an informal hearing to take place in Tallahassee, Florida and sponsored by the Florida Public Service Commission.

I am not acquainted with your protocols or procedures, therefore I respectfully request that you deal with the substance rather than the form....and if it is necessary for me to follow a specific form, please advise accordingly.

I am enclosing a duplicate copy so that you may record the time and date of receipt and return one copy as an acknowledgement.

Sincerely,

Chester Osheyack
(just an old man with a typewriter)
(813) 960-4610

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Lutz, Florida 33549



-M-E-M-O-R-A-N-D-U-M-

Date: January 25, 1996

To: Federal Communications Commission for Docket No 95-115

From: Chester "Chet" Osheyack

Subject: Telecommunications 1996....a challenge for government, for the public, and for the industry!

Since the introduction of the telephone into the technological inventory of mankind, it has been an implement of prime importance to the maturation of human interconnection. It has maximized the speed, and enhanced the effectiveness of social, commercial and political intercourse. It has compressed the vast distances between the far ends of the earth...and even what we call "space"....into a manageable apparatus which permits almost instantaneous interactive voice communication. Now, the addition of new technology, makes it further possible for delivery of entertainment, education, and information in the form of voice, image and data to be translocated on command and under the control of human design. Financial services, including but not limited to banking are being provided by a variety of telephonic devices. The US Internal Revenue Service is accepting federal tax payments and providing refunds as appropriate, by telephonic means. Telemarketing is in strong competition with marketing by mail for domination of the direct response industry. There are States (in the USA) which have begun to experiment with voter registration and even election...by mail, and the educated predictions are that it is merely a matter of time and minor modifications in existing technology before we are able to become at the very least, voluntary participants in national voter registration and elections via the telephone lines. In fact, there are few human pursuits that are more important than communication, access to information and education...all of which are, to a very great degree, dependant and becoming increasingly so, upon the telecommunications industry. We even find that public opinion is being plumbed and shaped by telecommunications.

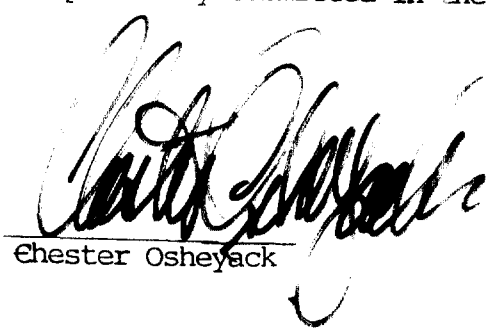
Thus is our socio-economic-political order at a critical and an historic crossroads. Crucial decisions that will have far reaching effects must now be made as to the direction that the telecommunications industry will take. The policies and procedures created and/or adapted to meet current and projected needs, shall determine whether the telecommunications industry will be a constituent of democracy and an instrument of social progress, or a minion of the wealthy and an agent of the cultural elite.

Let us, therefore, do our utmost, to make certain that public access to the national communications network is universally available, easily affordable, and irrevocable except for well defined and egregiously harmful cause. Let us ensure that "the least of us" is neither frivolously disenfranchised, nor for questionsable purpose, denied the benefits and opportunities of the new era in telecommunications.

With due apology to Alexander Graham Bell for the unlicensed extension of his historic remarks, to wit: "WHAT GOD HATH WROUGHT".....let not man put asunder, solely in the interest of corporate greed!

Let me, for all who are interested in the above noted subject, most respectfully reference the goals and limits as set forth in our Constitution as the benchmarks for governance in our Republic. It is the mandate of our government...."of, by and for the people"....that it recognize the significance of serving the "many", while concurrently accepting the commensurate responsibility for the protection of the "few". This is the fine line that a "fair and just" government must walk!

Respectfully submitted in the public interest by:



Chester Osheyack

-M-E-M-O-R-A-N-D-U-M-



Date: December 1, 1995

To: David E. Smith, Director of Appeals & Hearing Officer

From: Chester Osheyack

Re: Rulemaking hearing in Docket No. 951123-TP; proposed amendment of 25-4.113 (a) (f) Florida Administrative Code, Refusal or Discontinuance of Service By Company

Subject: DISCONNECT AUTHORITY, defined as the right of local exchange telephone companies to block and/or terminate local and emergency telephone service; and, access to competing long distance toll service as a tactic designed to leverage collection of long distance bills in default or in dispute.

PREFILED TESTIMONY AND EXHIBITS PURSUANT TO YOUR NOTICE DTD 10/30/95

CHESTER OSHEYACK
17850-A Lake Carlton Drive
Lutz, Florida 33549

TABLE OF CONTENTS

M E M O R A N D U M

To: David E. Smith, Director of Appeals & Hearing Officer

From: Chester Osheyack

December 1, 1995

Re: Pre-filed testimony in support of FPSC staff proposal recommending amendment to Rule 25-4.113 (a)(f), Florida Administrative Code, Refusal OR Discontinuance OF Service By Company, Docket No 951123-TP.

Subject in question is "DISCONNECT AUTHORITY", defined as the right of local telephone exchange companies to block and/or terminate local and emergency telephone service as a part of a strategy designed to leverage collection of long distance toll bills.

THE ORIGINAL RATIONALE FOR GRANTING DISCONNECT AUTHORITY NO LONGER EXISTS

In 1984, the FPSC, believing that the local exchange companies would not be able to survive financially after divestiture, permitted them to generate additional revenues through the sale of basic access service, short distance toll service, and certain ancillary services (sic billing and collection) to the inter-exchange carriers. In order to enhance the value of the collection service, and as an incentive for the IXCs to purchase it, the FPSC further granted the LECs the right to terminate basic local and emergency service (aka disconnect authority) in order to strengthen their ability to collect bills in default or dispute. During the initial discussions and prior to the FPSC order, the record will show that the LEC's attorneys expressed serious reservations as to the ability of the LECs to collect debts that they did not own under the conditions outlined above. It was the stated belief of the Commissioners at that time, that ownership of the debt was not required. At a later date, however, the FPSC did grant an LEC petition to purchase accounts receivable from the IXCs, purportedly "to alleviate the problem of maintaining multiple balances and prorating partial payments received from customers". While this "excuse" may well have been a consideration, the more likely motivation for the request was to bring the collection procedure into compliance with the federal Fair Debt Collection Act (Title VIII of the Consumer Credit Protection Act), Sec 803 (4) which excludes from the definition of "creditor" (and therby denies the right of the collector to take punitive actions), any party who receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another". These were defining decisions in terms of setting a direction for future regulatory policy in that they provided a legal defense for the telephone companies while disregarding other elements of the same federal law which addressed the matter of protection of the consumer from abuse. In other words, the rights of the end user were sacrificed to secure the financial health of the LECs. In all fairness to the FPSC, their objective was to guarantee uninterrupted basic local telephone service and their orders were consistant with the perception of the public interest at that time.

Since 1984, the situation has changed significantly. AT&T, which in 1984, controlled 90% of the long distance markets (and was therefore the principal, if not the sole, purchaser of the LECs billing and collection service), now controls only 56.6% of the long distance markets. MCI, a relative newcomer, has acquired a 17.7% market share; and, Sprint, which formerly was owned by GTE but is now an independant company, has an 8.7% share of the long distance market. The balance is distributed among a variety of competing entities which number in excess of 500. Moreover, the major long distance carriers are continually increasing the number of subscribers on direct billing albeit on a selective basis. Obviously, the criteria for selection is volume usage and potential for purchase of other features and/or services. It is appropriate here, to point out that this continuing erosion of the subscriber base will have the inevitable effect of devaluing the service and increasing the expense of operation due to fixed cost allocation. The obvious impact on the consumer is less service, while the billing agent will suffer the consequence of higher cost.

The LECs have, over the years, greatly improved their financial strength and stability. In fact, the local exchange business today is considered to be the most lucrative in the telecommunication industry, partly because of the high profit margins that it delivers. Florida's LECs specifically, are rated among the leaders in revenues produced measured against the performance of regional carriers throughout the nation. GTE and Bell South have been consistant in announcing annual increases in revenues and profits. GTE stock value, at 41+, has gained about 40% over its low for the year; and, Bell South stock value, at 78+, has increased by about 45% over its low for the year. These excellent records are clear indicators of public confidence in the corporate management and a productive future for the companies. In other words, the LECs today, are well able to stand alone without government protection, subsidy or micro-management.

Thus, it is reasonable to conclude that it is appropriate and timely to reexamine the relationships among the consumer, the government and the corporations, with particular attention to the foundations upon which they are based. What has become standard or traditional industry practice over the past 12-years, and the legal precedents born of monopoly regulation, must be revisited in the context of new laws and new market conditions....and to some degree, old laws which are more relevant to an industry in competition. The many concessions granted to the LECs in the past were to a great extent, motivated by a perceived need to compensate for the constraints imposed by monopoly regulation. The telephone companies must be prepared to relinquish many of these concessions as they are freed from regulatory restrictions. They can't have it both ways.

Disconnect Authority is one of the vestiges of monopoly regulation that must be addressed, and in fact, is being addressed in the PSC staff proposal.

DISCONNECT AUTHORITY AND THE LAW

After divestiture in 1984, the US Congress abandoned its responsibility for oversight and evaluation of the telecommunications industry to the Commissions and the Courts. The resulting lack of nationally uniform regulatory guidelines has led to confusion for end-users, subscribers, industry participants and regulatory agencies as to the rights of consumers and responsibilities of the regulators. This deficiency has allowed the telephone companies to engage in practices that abuse the rights of consumers. Individual state regulators, acting initially out of legitimate concern for the continuity of basic local service and access to long distance service for their communities, were later constrained by an unwillingness to challenge rules, which although obsolete, had become institutionalized. As a consequence, agendum were tolerated which are misleading and harmful to the public interest or contrary to accepted standards of business practice in the private sector.

Because a caller most often incurs a financial obligation immediately upon the completion of a call, there is an intrinsic obligation for accuracy in billing, and a compelling need for disclosure with clarity and specificity, of the terms and conditions of the "contract" between the carrier and the end-user, if consumer abuse is to be avoided. Current laws and derivative rules are totally inadequate insofar as defining consumer's rights and carrier obligations. Moreover, while there are clearly defined sanctions against the end-user for what are perceived as breaches of the rules, there exists no sanctions against the telephone companies for non-compliance, nor are there effective mechanisms for monitoring compliance or resolving consumer complaints.

The telephone companies, under monopoly regulation, have proven themselves to be exceedingly skillful in the art of deception and obfuscation. It is only recently, that in the heat of competition, the regional and long distance carriers have begun to expose each others predations and transgressions to the attention of the public. Using creative accounting and corporate structuring, they have succeeded in hiding profits and inflating expenses, thereby manipulating the actions of the Commissions. Their high earnings and cash flow have provided the funds with which to engage in expensive litigation to intimidate when unable to influence by intensive lobbying. They have made heavy investments in government relations through lobbying and other means of financial participation in the political process in order to obtain favorable legislation and regulation. However, notwithstanding this past history, we are at a point today, where the interests of the telephone companies, government, and the public are converged on a common objective of acheiving competition in the telecommunciations industry. While there may be disagreement on the definition of what is "full and fair competition", or the means by which to achieve it, there is complete accord on the goal. Accordingly, the "customary industry practices", which government has defended in the past, are doomed to fall under the scrutiny of government or alternatively, the courts. Legal precedants, achieved under monopoly regulation, can no longer bear weight. The intents and purposes of new law must frame the issues and dictate the direction of new policies. So must we now examine the issue of "disconnect authority" in the context of FS 1995, Ch 364 as amended.

There are significant questions that need to be resolved with respect to disconnect authority and the underlying joint operations agreements (sic billing and collection) between the LECs and IXCs as they relate to current law.

For example:

| | |
|---|---|
| FS 1995 Ch 364.01 (3) | mandates regulatory oversight to protect consumer; to ensure effective and fair competition; and, to prevent circumvention or evasion of anti-trust (sic anti-monopoly) laws. |
| FS 1995 Ch 364.01 (4) | sets forth legislative intent as follows: (b) mandates flexibility and choice; (d) mandates encouragement of competition; (f) mandates elimination of anti-competitive rules and regulations. |
| FS 1995 Ch 364.02 (2) | defines Basic Local Telephone Service as inclusive of access to emergency and long distance service. |
| FS 1995 Ch 364.025 (1) | establishes Universal Basic Telephone Service as a specific mandate for government regulators |
| FS 1995 Ch 364.16 (4) | establishes telephone number portability as a specific mandate for government regulators |

Thus, the propriety of disconnect authority must now be evaluated against the criteria of current law and contemporary interpretation of the public interest.

## DISCONNECT AUTHORITY IS ANTI-COMPETITIVE

Rates, deposits, credit extension, installation fees and customer service are all components of a competitive marketing function. They share in common the fact that they are factors that are considered by the prospective customer in his choice of a supplier. For this reason, they are integral parts of the strategies utilized by competitors to best their adversaries in the contest for market share. In permitting a single entity to exert exclusive control over terms and conditions to be presented to the customer, or even to influence such, either independantly or in consultation with clients (if they are competitors), an unfair limitation is placed on the process of negotiation between suppliers and their customers which has the effect of restricting competition if not totally eliminating it. Thus, the LEC billing and collection service, which utilizes disconnect authority as a collection practice, exhibits the classic characteristics of an illegal monopoly. Government, of course, may waive application of the anti-trust laws if such act is deemed to be in the public interest. However, in the light of the anti-consumer nature of disconnect authority, it would appear difficult, if not impossible, to reasonably make such a case.

It has been stated that elimination of disconnect authority may lead to a loss in revenues due to excessive bad debts that could translate into higher long distance toll rates. It is highly unlikely that long distance rates, in the current markets, will be impacted by anything other than competition which already exists. In fact, if anything impacts on long distance rates to any degree of significance, it is the high access fees charged by the LECs to connect long distance carriers to their customers. Despite the need to pay out over 40% of their revenues to the regional operating companies, the long distance companies have managed to reduce their rates by about 66% since 1985 (adjusted for inflation), while the LECs have been able to increase their rates for basic local service by about 13% over the same period. It should be noted that the LEC billing and collection systems are run as profit centers, while such operations which are administered by companies in their own behalf, are managed as services. The difference, under normal conditions, is that a service is treated in the accounting process as a cost of doing business to be charged against total earnings. In the case of a profit center, the books will register the expenses charged against income from the operation itself. This accounting practice has been historically misapplied in the telephone industry as a means of defending local rate increases.

Lost revenues resulting from inappropriate accounting systems or a lack of operational efficiency, particularly when such losses are derived from an activity which does not serve the public interest, and in fact is contrary to the public interest, should not be used as a basis for penalizing local telephone customers.

On point of lost revenues due to bad debt, I submit that this is one of the most overstated examples of hyperbole ever conceived for the purpose of defending an indefensible position. GTE recently supported its need to categorized customers in accordance with criteria which it established for its long distance clients. The customers are grouped by what is termed "credit risk". The petition to the FPSC requesting permission to implement its "experimental program" was supported by a contention that they were being victimized by 10 to 12,000 customers per month, and that the greater majority of those customers were commiting acts of intentional fraud. It is a fact that companies which extend credit (sic credit card companies), have typically found that it is cost effective to tolerate fraud so long as it is possible to pass the cost of such on to the consumer. Given the need, under competitive conditions, to utilize consumer friendly safeguards, we can have every confidence that American industry will rise to the challenge by developing technology and procedures that minimize fraud and maximize revenues. Credit card companies and others have discovered that a simple but effective anti-fraud tactic, now in common usage, is to require valid customer identification. Under the protection of monopoly regulation, the LECs in the telephone industry have had little motivation to do anything other than complain. Using information gleaned from GTEFL's own public statements, a reasonable person might conclude that if you remove fraud from the equation, and improve the quality of customer service, the probability is that the negative impact derived from bad debt on revenues would be greatly reduced...without resorting to deposit increases or artificial and discriminatory restrictions on service.

The threat of high deposits is another example of intimidating rhetoric that is too often used by the LECs. Here again , permitting the LECs to establish the criteria and/or amounts for client company's deposits, insulates the competing IXCs from the need to consider deposits as a competitive tool.

The notion that rates and/or deposits will rise if government acts to promote competition and eliminate anti-competitive rules is pure speculation designed to daunt the regulators. It is, in fact, antithetical to the precepts of a free market, and contrary to stated legislative intent, that the LECs continue to make these critical marketing decisions for competitors. If the above noted assumption bears credence, then the entire legislative reform effort is of no value....our American concept of entrepreneurial capitalism (based in the reward going to he who builds the better mousetrap) is wrong....and we should act immediately to nationalize the telecommunications industry. The latter course would be a far better option than to continue to permit government to be a party to the continued abuses of monopoly regulation.

note (1): It should be here noted, that GTEFL has recognized the competitive nature of the components of the marketing functions identified early in this paragraph. Their advertising copy, utilized in promoting the "Easy Savings Plan" for their "long distance"(in-state) program, promises "a 20% discount, sub-minute billing (which they contend could reduce rates by 40%), no installation charge, no monthly fees, and no access codes." (see exhibits attached)

DISCONNECT AUTHORITY IS ANTI-CONSUMER

The simple doctrine of fundemental fairness must be applied when evaluating the billing and collection system currently being used by the LECs. In 1990, when the joint operations agreements between LECs and IXCs began to reflect the pressing need for cost reduction, the concept of "billing and collection without inquiry" was introduced. The LECs hoped that this tactic would serve to check the waning interest of the IXCs in the purchase of the service and coincidentally stop the hemorrhaging in revenues caused by increased direct billing of subscribers by the IXCs. Since that time, the consumer has had to cope with a "creditor" which owns a debt, but has neither responsibility nor liability for the underlying purchase. This same "creditor" has the power to use extraordinary punitive measures to collect the debt, but is not empowered to remedy errors or resolve disputes. This is patently unfair and ethically wrong! Moreover, the customer can be denied, by virtue of disconnect authority, reasonable access to incoming calls, outgoing collect calls, 1-800 calls, and third number billed calls....none of which present financial risk to the billing agent or his client. Further, the customer is cut off from emergency services, police and fire protection, legal and health care services, family, friends and participation in government and the political process. The final indignity imposed may be the loss of the consumer's telephone number which in modern society has assumed an importance second only to his social security number as a means of identification. If the customer happens to be unemployed, telephone disconnection may interfere with his efforts to secure reemployment. Except for cases of fraud, it should be obvious that the punishment exacted as a tactic to collect a bill is excessive and abusive.

There is an identifiable difference in the attitude of employees of companies regulated as monopolies and those operating in a competitive market. Employees of monopolies are disposed toward intransigence and project an air of arrogance in dealing with their customers. Employees of companies in competition tend to be conciliatory and accomodating. The system itself, under the protection of monopoly regulation, tends to rely on punishment to resolve disputes, while a system in a competitive environment will seek resolution through negotiation leading to mutual accord.

Attempts by management to correct employee attitudes by retraining, or to correct public image through institutional advertising and participation in community affairs may bring temporary results, but unless the underlying problems are recognized and eliminated, the potential for regression will remain.

## EMPLOYMENT BENEFITS FROM FULL AND FAIR COMPETITION

One of the principal concerns in the matter under review by the Commission is the impact on employment....and it should be so!

It must be accepted as axiomatic, that the telephone companies, being publicly owned, must do, have been doing, and will continue to do, what is best for their stockholders. Both the LECs and the IXCs have already announced, and most have begun to implement plans to downsize their organizations "to meet the requirements of competition". GTE for example, has consolidated much of their operator service in Lexington, Kentucky. Information services have been consolidated in Atlanta, Georgia, and part of telephone operations have been or are being moved to Hershey, Pennsylvania. It is neither unusual nor unexpected that changes in markets and technology would trigger the corporate response of reorganization and reshaping of the workforce. The stated belief of the LECs that employment may decline as certain of their services (sic billing and collection for competitors) becomes devalued is doubtless true. However, this specific operation has been in the process of being devalued for at least five years, and the risk of attempting to maintain a devalued operation beyond its natural life is much the greater of the inevitable management choices. When a corporate department (or division) loses value, the employees will generally know it long before the management is willing to admit it. Such a scenario creates anxieties among the employees. Add to the milieu the inevitable pressure placed on the employees to maintain production against the consequences of decline in business, and morale suffers greatly. When the function is dependant upon a relationship with the public, the pressures and anxieties are transferred to the customer, and the potential for abuse is created. This set of circumstances accelerates the process of devaluation.

In preparation for competition, the telephone companies are taking steps necessary to streamline their operations and to eliminate fraud and inefficiency. With competition on the horizon, they will no longer be able to pass unnecessary expenses on to the consumer as they have in the past. This is a very natural development and any attempt to place blame for reductions in the workforce on efforts to eliminate anti-competitive rules are specious and disingenuous.

A recently published study by the WEFA Group of Bal Cynwyd, Pennsylvania, a widely known and well respected international research and economic forecasting organization, reported that "full and immediate competition in the telecommunications industry would create 129,700 new jobs in Florida by the year 2000."

It would appear then, that the best course of action for the FPSC to follow in order to ensure the lowest possible rates for the consumer in the local markets, and the highest possible levels of employment for Florida's telecommunications industry, would be to accelerate the advent of full and fair competition.

ECONOMIC IMPACT OF RESTRUCTURING TO ELIMINATE DISCONNECT AUTHORITY IS DE MINIMUS

This cost factor should be of little concern to the Commission in the context of the clear statement of legislative intent to move the telecommunications industry from monopoly to competition. However, since it has been past practice to consider financial impact on the LECs in decision making, it is a subject that will no doubt be raised and therefore must be addressed.

As a part of the preparation for the advent of competition, we can be sure that the telecommunications companies, being well managed corporations, have long ago prepared short range and long range plans including but not limited to contingency plans, and in fact they have already begun to implement those plans. Bell South recently announced a change in accounting method which created a one time charge off against earnings of $2.7 billion. GTE similarly changed their methods of accounting to reflect a charge off of $4.7 billion against earnings. These are charges which cover capital and assets that the companies are now depreciating at a faster rate than they would if they maintained their books as monopolies. In other words, these are changes which are a part of restructuring to meet the conditions consistant with competition. In addition, GTE announced a commitment to spend in excess of $200 million to a three year restructuring program aimed at reshaping the company to meet the requirments of competition. I understand that Bell South has made similar commitments, however, I have no credible figures available to support that statement. Both companies have mounted full scale campaigns supported by advertising, lobbying, and litigation in the federal courts aimed at ensuring their ability to compete for the $70 billion USA long distance market and enabling them to shake free of regulation. These promotional and legal expenses represent a commitment of multi-millions of dollars. Moreover, the companies have engaged and are engaging in negotiations to effect strategic alliances of various sorts in order to expand revenue sources to include cable TV, information networking and other features and services to be sold to their subscriber lists. In the context of the above noted restructuring expenses, the cost of restructuring to comply with Florida Law can be categorized as de minimus.

If the issue in question is a determination of a cost/benefit ratio, the matter can easily be resolved by appropriately characterizing the expense of eliminating disconnect authority (and in fact billing and collection for competitors) as a cost of restructuring in compliance with the prescriptions of competition. The LECs and the IXCs are unanimous in their public pronouncements of support for deregulation and competition. Let it be so!

THE GTEFL ADVANCED CREDIT MANAGEMENT PROGRAM

I would be remiss if I did not comment on this project even though it may appear to be beyond the scope of the subject under discussion. This program is a sham! conceived and implemented for the purpose of institutionalizing a monopolistic endeavor. It represents an attempt to achieve reasonable and lawful goals by unreasonable and unlawful means. It is unreasonable partly because it is structured on a paranoid and unsubstantiated hypothesis that the major portion of uncollected long distance bills are a result of intentional fraud. It is unlawful for all of the above noted reasons previously stated which define the anti-competitive nature of monopoly, plus the additional element of introducing the mechanism for violation of customer account confidentiality. For the purpose of this program, GTEFL contrives a means of evaluating and defining what it perceives to be the risk of doing business with a customer. They then proceed to "sell" this information to their competitors. The assertion is made that specific credit information will never be released, but if the basis for determination of "risk" is known, and service is blocked, there is a high probability that erroneous and damaging assumptions will ensue as a direct result of this irresponsible methodology.

note (2): It should be here noted that GTEFL has made a concession to compliance Florida Law by agreeing to permit temporary access to alternative carriers after service is blocked by means of dialing 10 XXX. However it should also be pointed out that GTEFL promotes its Easy Savings Plan for GTE Long Distance Service by conveyance of the advertised message, "You don't need long access codes or complicated prefixes to make the call.....", a message that emphasizes inconvenience for the customer. (see exhibits attached)

DISCONNECT AUTHORITY AND THE FUTURE OF TELECOMMUNICATIONS

There is little question that the actions pending (and actions already taken) in the US Congress and in states throughout the nation, have irrevocably set a new direction for the telecommunications industry that compels transition from monopoly to competition. Since competition already exists in the long distance markets, it is appropriate for us to focus our attention on the local markets. In Florida, the local markets will be declared open to competition effective January 1, 1996.

As new competitors move into the local markets, they will bring with them a plethora of introductory and special discount offers. There will be promotional package offers of combinations of services at special prices; there will be price wars; competition to offer special features and special services based in newly developed technologies. There will be short term incentives, sweepstakes and other tried and proven subscriber promotion strategies. The competitive battles will be fought over numbers initially, and over demographics eventually, after desired market shares are secure. Then, there will be "cherry-picking"....a tactic that will favor the volume end-users and disserve the low to moderate income working people and the elderly who are on fixed incomes. The unbundling of services may add a new dimension to the communications markets. A consumer may be able to have almost as many suppliers as there are products and/or services to be offered. The suddenly available multiplicity of consumer choices will unleash a chain of events which can only mean conflict and confusion to an industry in flux. Computer capacities will be

strained beyond their limits. The occasion for errors will be exceeded only by the sharp rise in consumer complaints. As the systems currently in operation will be unable to control this flow of events, so will the methods of handling consumer complaints suffer the consequences of these anticipated likelihoods. Against this background, regulators must be prepared to take on an added workload of consumer problems which will be an aftermath, albeit unintended, of this transition period. It is incumbent upon regulators to forsee the problems and adjust policies to meet expected needs. Reacting after the fact may lead to loss of control which could be a prelude to disaster.

The nascency of updated policy is the recognition of the inevitability of the need. The motivation for updated policy is the primacy of consumer protection as mandated by Florida Statutes as amended in 1995.

SUMMARY

If competition is to be effectively introduced into the telecommunication industry, it is an absolute necessity that any and all joint operations agreements between or among competing interests be subjected to intense government scrutiny as to their compliance with applicable law. Moreover, it is essential that consumer's rights and carrier obligations be reprioritized and brought into a new and more appropriate balance which is reflective of a competitive environment.

It is aphoristic, that if the LECs are permitted to retain even the vestiges of monopoly, such could provide a basis for unfairly restricting competition and the exercise of unreasonable control over prices, services and access for customers to competitors. The essence of competition is consumer choice which must be unencumbered. The right of LECs to bill and collect debts for competitors, including permission to purchase accounts receivable and utilize disconnect authority as a collection tactic, limits consumer choice.

ACCORDINGLY, IT IS INCUMBENT UPON THE COMMISSIONERS THAT THEY EXECUTE THE MANDATE OF FS 1995, Ch 364 AS AMENDED BY APPROVING THE RECOMMENDATION OF THE PSC STAFF.

Respectfully submitted in the public interest by:

**CHESTER OSHEYACK**
**17850-A Lake Carlton Drive**
**Lutz, Florida 33549**

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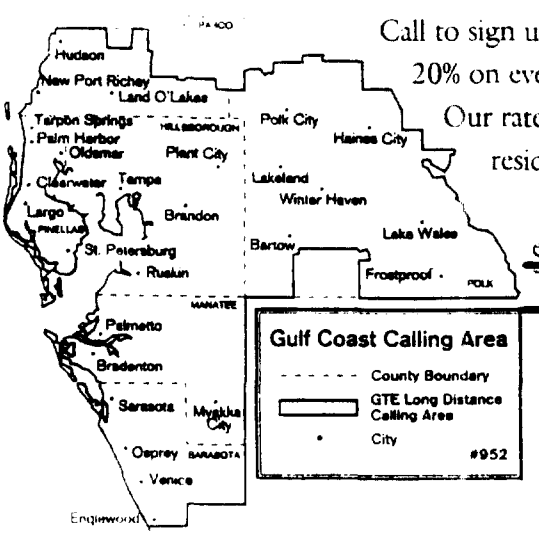


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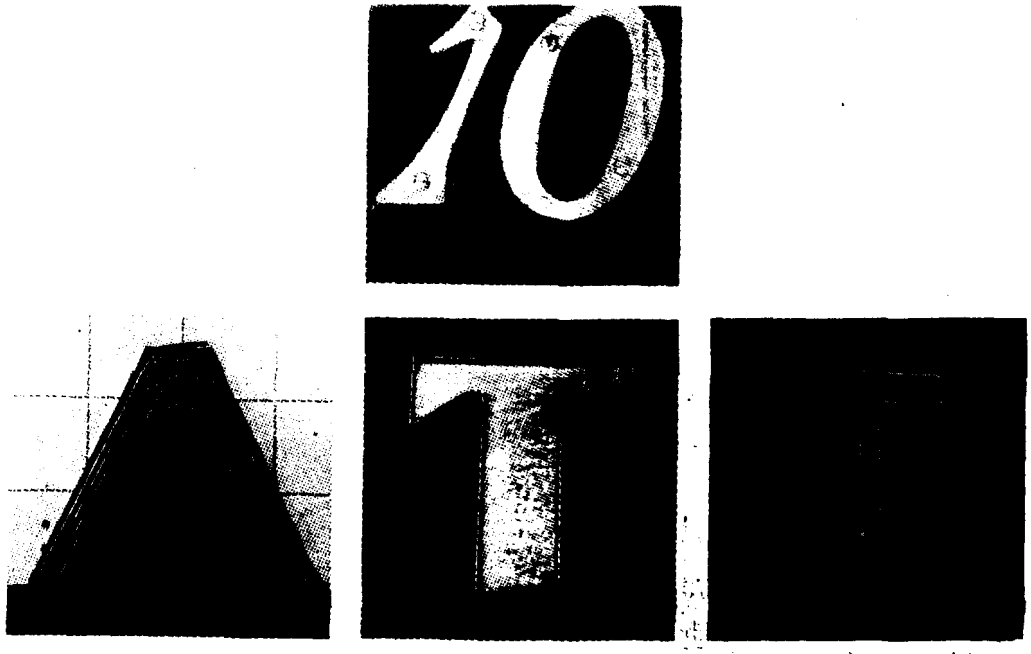
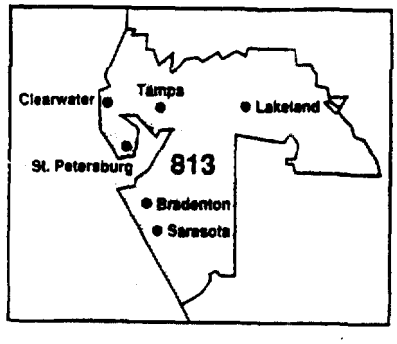
GTE

Rates shown are residential rates. Call for business rates. Suncoast Preferred is a registered service mark of GTE [illegible]




# Something to keep Tampa Bay talking.




If you think AT&T always carries your local toll calls from home, think again. Unless you make it clear that AT&T is your choice, your local telephone company will handle your local toll calls within and between Manatee, Sarasota, Hillsborough, Pinellas and Polk Counties.

So how do you make it clear? How can you be sure you're getting AT&T on these local toll calls from home? It's very simple. You just dial 10-ATT first.

That's **10-ATT + 1 + the area code and the number.**

No need to sign up. No monthly fee. Best of all, if you're enrolled in AT&T **True USA**℠ Savings, your 10-ATT calls count towards your monthly minimum requirement. And, if you're an AT&T **True Rewards**℠ customer, these 10-ATT calls can earn you **True Rewards**℠ points. If you have any questions or would like to enroll in **True USA**℠ or **True Rewards**,℠ just call 1 800-282-4212, ext. 13009

AT&T is bringing quality and service even closer to home.

**AT&T. Your True Voice.**℠

AS A CONDITION OF ITS ADVANCED CREDIT MANAGEMENT PROGRAM, IF YOUR LONG DISTANCE SERVICE IS BLOCKED, GTEFL GRACIOUSLY PERMITS YOU TO ACCESS A COMPETITOR'S SERVICE BY DIALING 10-XXX + 1 + AREA CODE AND THE NUMBER.....

AT&T



537

# "GTE provides real-life benefits to small businesses."

"When a small travel agency opened a couple of years ago, the owners wanted a phone system that could easily expand as their business grew, but they didn't want to float out by making a big investment. So they ordered GTE's CentraNet 1000 package, a fax machine and two telephones. Then when their community suffered a tornado and flood, CentraNet service became more than a small business decision. It became a lifeline.

While other business phone systems stopped working due to power outages, CentraNet service remained up and running, and the travel agency. In fact, other businesses in the area relied on the travel agency to contact their customers and family members.


## Big Advantages For Small Businesses.

CentraNet service is just one of the many services GTE offers to help small businesses prosper. We also provide services such as Voice Messaging, Business Line 800 service, Call Waiting and paging that give our business customers the edge whether they're working out of office out of their homes. What's more, makes these services available individ or through money-saving packages.

## One Amazing Guarantee.

Our service guarantee is simple and straightforward. We guarantee that we will meet our time commitment on installations and repairs, or you receive a $100 credit on GTE bill. This no-hassle, no- on-time guarantee applies to basic GTE phone service, GTE's Central SmartCall® and other local netwo and communications equipment GTE rental, warranty or standard contracts.

GTE

It's amazing what we can do together.™

The GTE Long Distance calling area includes Hillsborough, Manatee, Pasco, Pinellas, Polk and Sarasota Counties. $5 monthly minimum of GTE Long Distance calls required in order to qualify for volume discounts. CentraNet and SmartCall are registered service marks of GTE Service Corporation. GTE Easy Savings Plan for Business is a service mark of GTE Corporation.

# EXPERIENCING DISCOMFORT OR NAGGING IRRITATION?

.....AND THEN THEY PROCEED TO TELL YOU ABOUT THE INCONVENIENCE OF THE PROCEDURE THAT THEY ARE FORCING YOU TO ENDURE!

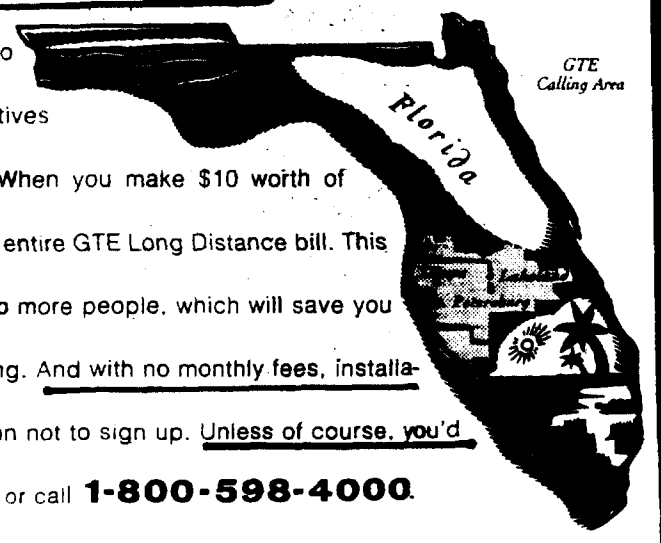
## (COULD BE YOUR PHONE BILL)

*Save*

**25%**

*When you spend $10 on GTE Long Distance*

and we have just the thing to ease the pain. The GTE Easy Savings Plan℠ uses a painless ingredient called "simplicity" to save 25% on all those GTE Long Distance calls to all those friends and relatives by simply doing what you do anyway: calling people. When you make $10 worth of GTE Long Distance calls a month, you'll save 25% on your entire GTE Long Distance bill. This will, in turn, allow you to make more long distance calls to more people, which will save you more money, which ... well, you can see where this is going. And with no monthly fees, installation charges or access codes, there's absolutely no reason not to sign up. Unless of course, you'd rather suffer. To sign up, visit your nearest GTE Phone Mart® or call **1-800-598-4000**.



CHESTER OSHEYACK
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-M-E-M-O-R-A-N-D-U-M-

ADDENDUM No. I

Date: December 3, 1995

To: David E. Smith, Director of Appeals & Hearing Officer

From: Chester Osheyack

Re: Rulemaking hearing in Docket No. 951123-TP
In rebuttal of Sprint Communications Company comments filed by Attorney Benjamin W. Fincher on November 16, 1995
Addendum to prefiled testimony dtd 12/1/95

SPRINT filed comments in opposition to the elimination of disconnect authority on grounds set forth and addressed in rebuttal below:

SPRINT questions the goal of the PSC staff proposal and suggests that the related action would not be in the public interest.

COMMENT: The goal of the proposed elimination of disconnect authority is the elimination of an anti-competitive rule and the encouragement of competition pursuant to FS 1995 Ch 364.01 (4) (d) (f).

SPRINT suggests the correction of abuses and sets forth as an example the method of handling 900 (pay per call) type calls.

COMMENT: The federal Telephone Disclosure & Dispute Resolution Act of 1992 (Public Law 102-556) in fact does purport to correct abuses in billing and collection systems in the handling of pay per call services which are to a very large extent the 900 calls. Section 228 (3) of that ACT "prohibits disconnection of telephone service because of non-payment of pay per call (including 900 call) charges". We agree with the Sprint observation.

SPRINT suggests the expectation that its bad debt experience would increase as a result of the elimination of disconnect authority, and implies the need to recover bad debt expense by increasing toll rates.

COMMENT: In a competitive environment, the market will drive the rates. The entity which can devise means of controlling fraud and minimizing bad debt expense in a consumer friendly manner will win the battle for subscribers.

CONCLUSION:

If we believe the hypothesis that competition benefits the consumer, then it follows that elimination of disconnect authority is, in fact in the public interest.

If SPRINT considers that disconnect authority is essential to their successful performance, they can obtain the right by entry into the local markets in competition with the existing LECs. They will then be free to exercise their right to disconnect service of their own customers.

Docket No. 951123
Rulemaking hearing
Addendum to prefiled testimony dtd December 1, 1995

CONCLUSION (continued):

In emphasizing the importance of retaining disconnect authority for the LECs, SPRINT inadvertantly makes the case for its elimination.

SPRINT's position reflects a mutuality of benefit derived by the LECs and the IXCs from joint operations between competing interests. The IXC buys what it considers to be an effective leveraged collection process. The LEC sells its service for profit and without risk of loss. Thus is established a mutual reliance which is a disincentive to competition and is therefore antithetical to the intents and purposes of current law and the public interest.

Respectfully submitted in the public interest by:

Chester Osheyack

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-M-E-M-O-R-A-N-D-U-M-

ADDENDUM No. II

Date: December 5, 1995

To: David E. Smith, Director of Appeals & Hearing Officer

From: Chester Osheyack

Re: Rulemaking hearing in Docket No. 951123-TP
Addendum to prefiled testimony dtd 12/1/95

MORE ABOUT DISCONNECT AUTHORITY AND THE LAW

After several meetings, an aggregate of sixteen (16) local and interexchange telephone companies serving the Florida markets signed on to a JOINT STIPULATION & AGREEMENT in which they affirmed mutual accord, subject to FPSC approval, to the following declarations: (Effective date of agreement 5/17/84)

(1) The LECs would provide billing and collection service for the IXCs at predetermined rates and conditions, with the proviso that the LECs would continue to possess the authority to disconnect local telephone service to collect toll bills pursuant to the right previously granted by the FPSC in Order No. 12765 dtd December 9, 1983; and,

(2) The LECs would purchase accounts receivable from the IXCs under preestablished terms and conditions, with the proviso that there be a recourse procedure which enabled the LECs to charge back uncollectible receivables to the IXCs from which they made the purchase.

On June 18, 1984, by Order No. 13429, the FPSC gave its qualified approval to the "joint operations agreement" on grounds that it met the test of "public interest standards" at that time. The following qualifications applied:

(1) Receipt of an acceptable uniform tariff within 30-days

(2) Requirement that the tariff include a uniform rate structure for specifically identified services to be rendered

(3) Requirement that the tariff should include specific procedures for handling disputed charges where the IXC has purchased the inquiry element and where it has not done so; and,

(4) Requirement that the tariff should specify whether the LEC is the final decision-maker in the handling of disputes when it purchases the receivables and the IXC handles its own inquiries, as well as when a dispute between the IXC and the customer cannot be settled.

Docket No. 951123-TP
Rulemaking hearing
Addendum to prefiled testimony dtd December 1, 1995

MORE ABOUT DISCONNECT AUTHORITY AND THE LAW (continued)

There are a number of serious questions raised by the above referenced documents, particularly when measured against the standard of current law to wit FS Ch 364 as amended in 1995.

(1) The "joint agreement" presumed that there would be a single entity with monopoly control in each of the local telephone markets. This is no longer a valid premise!

(2) The Florida legislature decreed in 1995 that the public interest is better served by competition than by monopoly. This mandated a new public interest standard!

(3) The signatories of the "joint agreement" of 1984 are considered, under current market conditions, to be "competitors". The fact that competing interests are brought together in an "industrial combination" which has vested exclusive management control over certain marketing functions in a single entity and within a defined market area, may cause the accord to be viewed as an illegal "trust"!

(4) The "joint agreement" and the FPSC Order require a uniform rate structure be applied to the purchase of services by the IXC from the LEC. Since the telephone company representatives and advocates are quite vocal in their contention that collection expenses are passed on to the customer in toll rates, it is reasonable to assume that uniformity of cost restricts or eliminates the possibility of competition!

(5) The "joint agreement" appears to require that the LECs have and utilize disconnect authority as a collection tactic. Thus the signatories are locked into a uniform customer service practice which eliminates the need, and in fact the opportunity to compete with other signatories by introduction of new procedures or technologies which might be more customer friendly. At the very least, this is a disincentive to competition!

(6) There is a "recourse" provision in the "joint agreement" which has the effect of eliminating the risk of financial loss to the LECs by permitting them to charge uncollectible account receivables back to the IXC from which they were purchased. Absent this risk of loss, the LECs have no real security interest in the debt, and under the appropriate provisions of the Fair Dept Collection Practices Act (Title VIII of the Consumer Credit Protection Act; S 803 (4)), they are not deemed to be a "creditor". Accordingly, they are precluded from taking extreme non-judicial action (sic disconnection of an unrelated service which is, in fact disablement of property) for the purpose of collecting a third party debt!

Docket No. 951123-TP
Rulemaking hearing
Addendum to prefiled testimony dtd December 1, 1995

MORE ABOUT DISCONNECT AUTHORITY AND THE LAW (continued)

Moreover, there are questions raised in the review of the FPSC Order No. 13429 dtd June 18, 1984, which should be addressed.

(1) The FPSC Order mandated specific procedures to be identified with respect to the handling of disputed IXC charges; and,

(2) The FPSC Order mandated the establishment of a chain of responsibility for decision-making in the handling of disputed IXC charges in the event that the IXC handles its own inquiries, and in the event of inability to settle a dispute between the IXC and the customer.

These mandates show great foresight on the part of the FPSC of 1983-84, since they anticipated a need for the discipline in this extremely sensitive credit process in order to prevent consumer abuse.

Since there does not appear to be any clear reference to such procedures in either the Florida Administrative Code (FAC Ch 25.4), or the Florida Statutes (FS Ch 364),it is reasonable to assume that something has gone awry during the ten-year period to date. Either the tariff presented in 1984 in response to the FPSC Order was modified in a deleterious manner, or the telephone companies are not in compliance with the tariff. In any case, I have not been able to find any record of a regulated procedure which protects the consumer from untimely and unreasonable punishment.

In the absence of such a procedure, it is possible that disconnect authority may be invoked by an LEC while a dispute is in the process of negotiation between the IXC and the customer; or alternatively, disconnect authority may be invoked in the absence of a mutually agreeable resolution to such a dispute. Such an act may be construed as non-compliance with the FPSC Order above referenced (and the resulting tariff); and may also involve a Constitutional issue in that there is imposed a severe punishment without realization of fault.

In the light of the above referenced information, I respectfully suggest that these issues be referred to the State Attorney General for an opinion with respect to compliance with appropriate law. This request is made in accordance with FS Ch 364.01 S(3) 1995.

Respectfully submitted in the public interest by:

Chester Osheyack